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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/806,204

03/22/2004

David A. Selby

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(SAUL-END) PATENT DOCKETING CLERK
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EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

11/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/806,204 | Applicant(s) SELBY, DAVID A. | |
| | Examiner Andre Boyce | Art Unit 3623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 17, 2009 has been entered.
2. Claims 1, 5, 6 and 8 have been amended. Claims 1-24 are pending.
3. The previously pending rejections to claims 1-8 under 35 USC 101 have been withdrawn.

Declaration Under 37 CFR § 1.131

4. The declaration filed on September 17, 2009 under 37 CFR 1.131 has been considered and is effective to overcome the Quatse et al (US 2005/0010472) reference.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-4, 7-12, 15-20, 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Martin (US 2007/0055570).

As per claim 1, Martin discloses a method for selecting an optimal set of events to be performed, where each event has a value and where the selection of any event reduces or leaves unchanged the value of unselected events (i.e., analysis of prioritized lists, ¶¶ 0005-0007), comprising: performing a first sort on all unselected events to form a pending event list, so that the events are ordered sequentially by their values, with the highest-valued event being at the top of the pending event list (i.e., prioritized list, ¶ 0004); selecting the highest-valued unselected event upon the occurrence of a predetermined trigger (i.e., organization determines that a specific set of segment of customers buy more than average customers and are given higher priority in the prioritized list, ¶ 0006); recomputing the values of each event after the selection of the highest-valued unselected event (i.e., sales promotional effort is measured, enabling an analyst to revise the prioritized list based upon the measurement, ¶¶ 0061-62); and moving the highest-valued unselected event, after performance of the recomputing step, to the top of the pending event list without performing a second sort of the entire pending event list (i.e., change in targeting priority, ¶ 0062).

As per claim 2, Martin discloses the selecting, recomputing, and moving steps are iteratively performed until the occurrence of a predetermined condition (i.e., adjustments based on three measured response, e.g., change in sales, change in selling activity and change in sales instructions, ¶¶ 0062-63).

As per claim 3, Martin discloses said predetermined condition comprises the selection of a predetermined number of events (i.e., measurement of results by segment used to adjust the prioritization, ¶ 0071).

As per claim 4, Martin discloses each event has a cost associated with its selection, whereby said predetermined condition comprises the reaching of a predetermined cost total for said selected events (i.e., cost per contact, ¶ 0105).

As per claim 7, Martin discloses each events expected gain (i.e., change in sales of the customer, ¶ 0063).

As per claim 8, Martin discloses said recomputing process comprises performing a saturation process on said unselected events (i.e., doubling the average number of contacts to medium priority customers to coincide with high priority customers, ¶ 0072).

Claims 9-12, 15 and 16 are rejected based upon the same rationale as the rejections of claims 1-4, 7 and 8, respectively, since they are the system claims corresponding to the method claims.

Claims 17-20, 23 and 24 are rejected based upon the same rationale as the rejections of claims 1-4, 7 and 8, respectively, since they are the computer program product claims corresponding to the method claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5, 6, 13, 14, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (US 2007/0055570).

As per claim 5, Martin does not disclose the performance of a truncated bubble sort on the events based on their recomputed values. However, the Examiner takes Official Notice that truncated bubble sorts are old and well known, and it would have been obvious to one of ordinary skill in the art to include performance of a truncated bubble sort in the system of Martin, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 6, Martin does not disclose the performance of a binary chop sorting process on the events based on their recomputed values. However, the Examiner takes Official Notice that binary chop sorting is old and well known, and it would have been obvious to one of ordinary skill in the art to include performance of a binary chop sorting process in the system of Martin, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 13 and 14 are rejected based upon the same rationale as the rejections of claims 5 and 6, respectively, since they are the system claims corresponding to the method claims.

Claims 21 and 22 are rejected based upon the same rationale as the rejections of claims 5 and 6, respectively, since they are the computer program product claims corresponding to the method claims.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
November 22, 2009